IN THE IOWA DISTRICT COURT FOR POLK COUNTY

INTERSTATE POWER AND LIGHT COMPANY Petitioner, v. IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA, Respondent.	CASE NO. CVCV065011 **PETITIONER'S RESISTANCE TO (1) RESPONDENT'S PRE-ANSWER MOTION TO DISMISS AND (2) OBJECTION TO MOTION TO ENLARGE TIME TO TRANSMIT CERTIFIED RECORD**

COMES NOW the Petitioner, Interstate Power and Light Company ("IPL") and for its Resistance to the Respondent, Iowa Utilities Board, a division of the Department of Commerce of the State of Iowa's ("the Board"), Pre-Answer Motion to Dismiss and Objection to Motion to Enlarge Time to Transmit Certified Record respectfully states as follows:

I. PROCEDURAL BACKGROUND – UNDERLYING AGENCY ACTION.

1. IPL is a rate-regulated public utility that provides electric and natural gas service to approximately 500,000 electric and 250,000 natural gas customers in 83 counties in Iowa. IPL is a wholly-owned subsidiary of Alliant Energy Corporation.

2. The Board is an administrative agency as defined in Iowa Code section 17A.2(1).

3. Iowa Code § 476.53 allows rate-regulated utilities, such as IPL, to request the Board specify advance ratemaking principles when a utility proposes to construct, lease, or own, alternate energy production facilities, which includes solar and energy storage. Iowa Code § 476.42; *see* 199 IAC 41.1. Iowa Code § 476.53(3)(a) requires that "[t]he board *shall* specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs

of the electric power generating facility or alternate energy production facility are included in regulated electric rates…" (emphasis added).

4. On November 2, 2021, IPL filed an "Application for Advance Ratemaking Principles, Waiver of Reorganization Requirements, and Limited Waiver of Energy Adjustment Clause Requirements" ("Application") supported by direct testimony, pursuant to Iowa Code § 476.53 and 199 IAC Chapter 41. IPL requested that the Board specify advance ratemaking principles for total of 475 MW of solar and battery energy storage facilities to provide capacity and increase reliability for IPL's customers. The specific projects for which IPL requested advance ratemaking principles consisted of Duane Arnold Solar I, a 50 MW solar generating facility ("DAS I"); Duane Arnold Solar II, a 150 MW solar generating facility ("DAS II") paired with a 75 MW battery energy storage system ("BESS Project"), and an additional 200 MW of solar generating facilities in Iowa ("200 MW Project").

5. The Board held a contested case hearing on IPL's Application on August 8–9, 2022.

6. On November 9, 2022, the Board issued a Final Order ("Final Order") denying IPL's Application and declining to specify advance ratemaking principles for any portion of the project.

7. On November 29, 2022, IPL filed a Motion for Reconsideration or Rehearing ("Motion for Reconsideration") requesting that the Board reconsider its Final Order denying IPL's Application. In the alternative, IPL requested a rehearing pursuant to 199 IAC 7.27.

8. On December 29, 2022, the Board issued an Order on Reconsideration ("December 29, 2022 Order on Reconsideration"). IPL's Motion for Reconsideration was granted in part and denied in part. The Board denied IPL's Motion for Reconsideration for advance ratemaking principles on the 200 MW Project and the BESS Project.

9. The Board granted IPL's Motion for Reconsideration for advance ratemaking principles for DAS I (the 50 MW solar generating facility) and DAS II (the 150 MW solar generating facility) and ordered IPL to submit additional evidence to the Board.

10. On January 30, 2023, IPL submitted additional evidence to the Board as required by the Order on Reconsideration.

II. PROCEDURAL BACKGROUND – FILING OF PETITION FOR JUDICIAL REVIEW AND STAY BY THE BOARD OF THE UNDERLYING AGENCY ACTION.

11. IPL reasserts the foregoing paragraphs as if fully set forth herein.

12. On January 30, 2023, IPL timely filed a Petition for Judicial Review pursuant to Iowa Code § 17A.19(10) alleging the Board unlawfully denied IPL's application and did not specify advance ratemaking principles for the 200 MW Project and the BESS Project, as required by Iowa Code § 476.53(3)(a).

13. On February 21, 2023, the Board entered an Order Staying Review on Rehearing ("Stay Order") in the underlying agency proceeding involving the rehearing of the DAS I and II projects for which rehearing had been granted. In its Stay Order, the Board stated it was "unclear whether the Board can proceed with the reconsideration proceeding as contemplated by IPL while the judicial review proceeding is before the District Court." The Board stated it was electing to await direction by the District Court regarding the scope of the Board's jurisdiction and, until such direction was received, the Board would not issue a decision on rehearing on DAS I and DAS II.

14. On February 24, 2023, IPL filed an Amended Petition for Judicial Review.

15. On February 27, 2023, the Court entered an Order for hearing and set forth a briefing schedule for the judicial review proceeding.

16. On February 28, 2023, the Board filed a Pre-Answer Motion to Dismiss and Motion to Enlarge Time to Transmit Certified Record ("Motion to Dismiss"). In the Motion to Dismiss the Board asserts the decision to deny rehearing for the 200 MW Project and the BESS Project did not constitute final agency action entitled to judicial review and the Board sought direction on its jurisdiction to address the reconsideration of DAS I and DAS II.

III. THE BOARD'S DECEMBER 29, 2022 ORDER DENYING RECONSIDERATION OF THE 200 MW PROJECT AND BESS CONSTITUTES FINAL AGENCY ACTION AND IPL HAS EXHAUSTED ALL REMEDIES AND MET ALL REQUIREMENTS FOR SEEKING JUDICIAL REVIEW.

17. IPL reasserts the foregoing paragraphs as if fully set forth herein.

18. Iowa Code § 17A.19 governs petitions for judicial review. Iowa Code § 17A.19(3) provides that "[i]f a party files an application under section 17A.16, subsection 2, for rehearing with the agency, the petition for judicial review must be filed within thirty days after that application has been denied or deemed denied."

19. On December 29, 2022, the Board issued the Order on Reconsideration and denied IPL's Motion for Reconsideration on the 200 MW Project and the BESS Project.

20. IPL timely filed a Petition for Judicial Review on January 30, 2023 on the 200 MW Project and the BESS Project that had been denied reconsideration and rehearing in the December 29, 2022 Order on Reconsideration.

21. IPL's Amended Petition for Judicial Review requests the following relief and asks the Court to:

> Reverse the portion of the Board's Final Order of November 9, 2022, and Order on Reconsideration issued December 29, 2022 related to the 200 MW of solar generation and the 75 MW battery energy storage system and remand this case to the Board with directions to specify the ratemaking principles for 200 MW of solar generation and the 75 MW battery energy storage system project consistent with Iowa Code § 476.53.

22. Iowa Code allows for judicial review from final agency actions when all administrative remedies have been exhausted and the entity (or individual) is aggrieved or adversely affected by the agency action. Iowa Code § 17A.19(1). When the entity has applied to an agency for rehearing or reconsideration, the Code requires that any petition for judicial review must be filed within thirty days after the denial of that application.[1] Iowa Code § 17A.19(3).

23. Once the Board issued its December 29, 2022 Order on Reconsideration denying IPL's Motion for Reconsideration regarding the 200 MW Project and the BESS Project, IPL had exhausted its administrative remedies regarding those two specific projects and was required to seek judicial review of the final agency action within 30 days or waive its right for further review. Iowa Code § 17A.19(3); *see also* Iowa Code § 17A.19(1) (*see* December 29, 2022 Order on Reconsideration at p. 17 "the Board will grant the motion for reconsideration or rehearing in part and deny the motion for reconsideration or rehearing in part.").

24. Iowa appellate courts have addressed the interplay between judicial review petitions and motions for rehearing and reconsideration at the agency level on multiple occasions. *See Christiansen v. Iowa Bd. of Educ. Examiners*, 831 N.W.2d 179 (Iowa 2013); *Cooper v. Kirkwood Cmty. Coll.*, 782 N.W.2d 160, 162 (Iowa Ct. App. 2010); *Zafar v. Iowa Bd. of Med.*, 842 N.W.2d 680 (Iowa Ct. App. 2013) (unpublished decision).

25. In each case, the appellate court was primarily concerned with not awarding a strategic advantage to any party based on when the petition for judicial review is allowed to be filed. Such an advantage could be conferred if, for example, a nonmoving party is allowed to file a petition for judicial review while another party has a rehearing request pending with the agency

[1] Iowa Code § 17A.19(1) includes a special provision stating that agency action over ratemaking by common carriers or public utilities is not considered final until a rate has been prescribed. That provision does not apply to this circumstance because the agency wholly denied the request for advance ratemaking.

because the judicial review request functionally divests the agency of jurisdiction in a manner unfair to the party requesting rehearing. *See Christiansen*, 831 N.W.2d at 190; *Cooper*, 782 N.W.2d at 166; *Zafar*, 842 N.W.2d at n.1. The court in *Christiansen* reconciles this tension in the "dueling parties" context by tolling the judicial review deadline while the agency finishes its work, thereby maintaining a balance between the parties. *Christiansen*, 831 N.W.2d at 187.

26. Similarly, *Zafar* emphasizes the importance of preventing manipulation of the system to an individual's advantage by disallowing the filing of successive rehearing petitions as a way of self-tolling a judicial review deadline. *Zafar*, 842 N.W.2d at 680. *Zafar* also recognizes that *Christiansen* does not apply beyond the procedural context of "dueling parties." *See id*. at n.1.

27. Here, neither of the concerns presented in *Christiansen* and *Zafar* are present. IPL is both the party that moved for reconsideration at the agency level and the party that is seeking judicial review, so there are no "dueling parties." There is no risk of awarding a strategic advantage by allowing the judicial review petition to move forward on the 200 MW Project and the BESS Project because the Board had already denied the relief sought in the Motion for Reconsideration as to these two projects. IPL has not attempted to use successive petitions to toll the judicial review deadlines. The current procedural status does not implicate risk to basic fairness or risk of the Court awarding strategic advantage to IPL, which were concerns articulated in *Christiansen* and *Zafar*.

28. The Iowa Court of Appeals' rationale in the *Cooper* case explains precisely why IPL was required to file its Petition for Judicial Review following the Board's denial of the motion to reconsider its decision on the 200 MW Project and the BESS Project.

29. In *Cooper*, the Iowa Supreme Court stated that a motion for rehearing in the administrative context is like a post-trial motion in the civil litigation world. *See Cooper*, 782

N.W.2d at 165–68. Therefore, when the motion for rehearing is filed, the previously-final agency decision becomes, in a sense, interlocutory rather than final. *Id*. at 166. That interlocutory status is what tolls the 30-day requirement of Iowa Code § 17A.19(3). *Id*. at 166–67. Absent the interlocutory status, the party moving for judicial review must do so within 30 days after the denial of the rehearing motion or within 30 days after the post-rehearing final decision. *See id*.; *see also* Iowa Code § 17A.19(3).

30. Thus, once the agency rules on the motion for rehearing, just as the Board did in the December 29, 2022 Order on Reconsideration in denying IPL's request for rehearing on the 200 MW Project and the BESS Project, it has issued a final agency action. IPL, as the moving party, had then exhausted its administrative remedies, and the procedural tolling of the judicial review deadline was removed. IPL was then required to file its judicial review petition within 30 days or waive its claim.

31. IPL timely and properly filed its Petition for Judicial Review within 30 days of the Board's December 29, 2022 Order denying reconsideration on the 200 MW Project and the BESS Project.

IV. IN THE ALTERNATIVE, THE COURT SHOULD CONSIDER IPL'S PETITION FOR JUDICIAL REVIEW AS AN APPLICATION FOR AN INTERLOCUTORY APPEAL.

32. IPL asserts the foregoing paragraphs as if fully set forth herein.

33. Should this Court rule that the Board's Order on Reconsideration of the 200 MW Project and the BESS Project does not constitute final agency action, IPL asks that this Court treat its Petition for Judicial Review as an application for interlocutory appeal. The Iowa Administrative Procedures Act allows interlocutory appeals when an agency action is not final but "all adequate

administrative remedies have been exhausted and review of the final agency action would not provide an adequate remedy." Iowa Code § 17A.19(1). IPL has satisfied both prongs of the test.

34. The first prong is satisfied as IPL has exhausted all of its administrative remedies regarding the 200 MW and BESS projects. As IPL demonstrates above, the Board's December 29, 2022 Order on Reconsideration reflects that the agency has completed its administrative proceedings at the agency level on the 200 MW Project and the BESS Project. The Board affirmatively refused to specify advance ratemaking principles for those projects or reconsider its denial; the action was and is final.

35. Exhaustion of remedies "exists primarily to prevent courts from interfering with the administrative process until it has been completed." *City of Des Moines v. City Dev. Bd. of State*, 633 N.W.2d 305, 309 (Iowa 2001) (citing *McKart v. United States*, 395 U.S. 185, 193 (1969)). Here, IPL has exhausted its administrative remedies because there are no further actions available to it at the agency level as the Board already denied reconsideration of is Final Order regarding the 200 MW Project and BESS Project. As IPL has already requested reconsideration, and that reconsideration has been denied, IPL has no further administrative remedies other than judicial review to address the unlawful denial of advance ratemaking principles for the 200 MW Project and the BESS. The Board's Motion to Dismiss further emphasizes the lack of administrative remedies, noting that the rehearing of the DAS I and II Projects may include "no further determinations [] in Docket No. RPU-2021-0003 in regard to the 200 MW of solar and the BESS."[2] Thus, even if the Court finds the Board action is not final, IPL has satisfied the first prong of the statutory test for interlocutory appeals as it has exhausted all of its administrative remedies.

[2] IPL notes that the Board has described the four projects as "intertwined" in its argument for dismissal. The mere fact that the Board chose to deny reconsideration as to the 200 MW Project and the BESS Project while granting reconsideration as to DAS I and DAS II indicates that the projects are separable at some level. Projects such as these may be related to one another but are not so "intertwined" as to be inseparable.

35. The second prong of the test requires IPL to show that "the delay in obtaining judicial review until the agency proceeding is completed would deprive the litigant of an adequate remedy." *Id*. (citing *Salsbury Labs. v. Iowa Dep't of Envtl. Quality*, 276 N.W.2d 830, 836 (Iowa 1979); § 17A.19(1)). The Board argues that IPL cannot be deprived of an adequate remedy because it may petition for judicial review of the Board's decisions as to all four projects once the Board has issued a final order on the two projects under reconsideration. The Board's argument fails because Iowa law does not necessarily entitle IPL to any further review of the Board's decision on the 200 MW Project and the BESS Project once the Board issues its final order on DAS I and II.

36. The Board repeatedly suggests that IPL must wait to file its petition for judicial review until after the Board concludes its reconsideration of DAS I and II. But the Board cites no legal authority for the proposition that IPL is entitled to judicial review at that point. The only legal authority the Board does cite is for the general proposition that a review by the agency is an adequate remedy even if untimely. *See Richards v. Iowa State Commerce Comm's*, 270 N.W.2d 616, 620–21 (Iowa 1978).

37. In this case, requiring IPL to wait to file its petition until after the Board concludes the DAS I and II rehearing would deprive IPL of an adequate remedy. IPL intends to delay construction of the 200 MW Project and BESS until after the Board specifies ratemaking principles. Each day the Board delays in its duty to specify advance ratemaking principles for the Projects risks their viability. And, given IPL's need for new generating capacity, requiring IPL to wait to file its petition further delays this proceeding and construction of the Projects and harms IPL's ability to adequately serve its electric customers. *In Re: Interstate Power and Light Company*, Docket No. RPU-2021-0003, Order Addressing Motion for Reconsideration or Rehearing, p. 15-16, (Dec. 29, 2022).

37. However, the question in the second prong is about whether an adequate remedy exists, which depends on the preservation of IPL's right to further review of the agency's unlawful decision, whether that be through judicial review or interlocutory appeal. IPL would be irreparably harmed by delaying its Petition for Judicial Review until the Board's decision on reconsideration of DAS I and II because such a delay could later prevent judicial review of the denial of advance ratemaking principles for the 200 MW Project and the BESS Project. The Board has cited no authority to overcome such a risk and IPL should not be required to gamble with its rights to further review of the Board's decision on the 200 MW Project and the BESS Project.

38. As explained above, current Iowa statutes and accompanying caselaw hold, at a minimum, that judicial review of final agency action must be sought within 30 days of the final agency action. Factually, IPL has exhausted all administrative remedies and the Board has issued its final decision regarding the 200 MW Project and the BESS Project. Legally, IPL knows the risks of missing a filing deadline. Delaying filing until review of DAS I and II is complete places an unreasonable burden of uncertainty on IPL, and the consequences of being incorrect are fatal to its right for further review of the Board's action with respect to the 200 MW Project and the BESS Project. Such a deprivation is sufficient to meet the second prong of the test for eligibility for interlocutory appeal.

39. For the reasons listed in Parts III and IV, the Court should deny Respondent's Pre-Answer Motion to Dismiss.

V. THE RECORD FOR JUDICIAL REVIEW OF THE BOARD'S DENIAL OF RATEMAKING PRINCIPLES FOR THE 200 MW PROJECT AND BESS CLOSED ON DECEMBER 29, 2022, AND IPL'S SUBMISSION OF INFORMATION TO THE BOARD ON JANUARY 30, 2023 DID NOT JEOPARDIZE THE BOARD'S JURISDICTION TO ISSUE AN ORDER ON RECONSIDERATION ON THE DAS I AND DAS II PROJECTS EVEN IF THE BOARD LACKS JURISDICTION WITH RESPECT TO THE 200 MW PROJECT AND BESS.

40. IPL reasserts the foregoing paragraphs as if fully set forth herein.

41. On January 30, 2023, IPL submitted additional evidence to the Board as required by the Order on Reconsideration. That information included separate economic analyses regarding DAS I, DAS II, the 200 MW Project, and the BESS.

42. Thereafter, Motions to Strike were filed by Intervenors Iowa Business Energy Coalition ("IBEC") and the Large Energy Group ("LEG") and the Office of Consumer Advocate ("OCA") in the agency rehearing proceeding claiming information provided by IPL was outside the scope of the Order on Reconsideration and was not relevant. The Board's Motion to Dismiss requests clarification from the Court as to whether these subsequent filings in the DAS I and II agency rehearing impact the Board's jurisdiction to issue further orders on DAS I and II in the rehearing proceeding.

43. The Board continues to have jurisdiction to issue advance ratemaking principles for the DAS I and II Projects under Iowa Code § 476.53, as the Board granted reconsideration for those projects and IPL's Amended Petition for Judicial Review was limited to denial of the 200 MW Project and the BESS Project.

44. The fact that IPL was required by the Board to submit additional information as part of the DAS I and II rehearing does not change the fact that the Board has issued a final decision denying the 200 MW Project and the BESS. Nor does IPL's submission of additional information to the Board somehow place the DAS I and II Projects within the scope of its Amended Petition

for Judicial Review, which is specific to the unlawful denial of advance ratemaking principles for the 200 MW Projects and the BESS.

45. As a preliminary matter, judicial review is confined to the record on which the Board made its decision, which, in this case, was the December 29, 2022 Order on Reconsideration. The Court may not hear further evidence that is submitted after that Order. *See* Iowa Code Ann. § 17A.19(7) ("In proceedings for judicial review of agency action in a contested case, however, a court shall not itself hear any further evidence with respect to those issues of fact whose determination was entrusted by the Constitution or a statute to the agency in that contested case proceeding."). The Iowa Supreme Court has reaffirmed this principle twice by issuing a blanket preclusion on additional discovery in judicial review cases. *Studer v. Iowa Dep't of Transp., Motor Vehicle Div.*, 378 N.W.2d 300, 302 (Iowa 1985) ("the discovery procedures of the Iowa Rules of Civil Procedure are inapplicable to judicial review of contested case hearings."); *Council Bluffs Cmty. Sch. Dist. v. City of Council Bluffs By & Through Council Bluffs Hum. Rels. Comm'n*, 412 N.W.2d 171, 174 (Iowa 1987) (because the district court sitting in judicial review has no authority to hear additional evidence, discovery would be inappropriate). Both *Studer* and *Council Bluffs* are still good law. Moreover, each bases their analysis on provisions of the Iowa Administrative Procedure Act that have not changed, namely that the district court has no power to hear additional evidence on judicial review. *See* Iowa Code § 17A.19(7). In short, the universe of information the district court may review as to the 200 MW Project and the BESS Project became complete with the Board's December 29, 2022 denial of IPL's motion to reconsider those two projects.

46. The Board's Motion to Dismiss asks the Court to take judicial notice of filings that were made *after* the Board issued its final decision, the December 29, 2022 Order on

Reconsideration. This is not proper. Under the Iowa Rules, courts may take judicial notice of a fact " that is not subject to reasonable dispute because it: (1) Is generally known within the trial court's territorial jurisdiction; or (2) Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Rule 5.201. Judicial notice of data on agency websites in this context is based on the assumption that such data's accuracy cannot be questioned. *See League of United Latin Am. Citizens of Iowa v. Pate*, 950 N.W.2d 204, 212 (Iowa 2020) (collecting cases). This proposition is limited to data listed on the agency's website and has not been applied such that it includes information contained in pleadings in a contested case proceeding whose docket is also accessible through an agency website.

47. Even if the Court were to consider the information submitted to the Board on January 30, 2023, the information provided by IPL in the rehearing proceeding for DAS I and II does not change the fact that the Board has issued a final decision on the 200 MW Project and the BESS Project. The information IPL filed in the rehearing proceeding is directly relevant to the reasonableness of the cost of the DAS I and II Projects. Specifically, IPL's January 30, 2023 filing of additional information in the DAS I and II rehearing contained additional information demonstrating the projects are the most reasonable alternative for meeting the long-term capacity needs of IPL's customers, and there are no feasible, less costly, more reasonable alternatives that can meet IPL's long-term capacity needs on the same timeframe and cost as the proposed projects. The information provided by IPL was also segregated by project so the Board is free to consider or not consider any information provided in connection with the DAS I and II agency rehearing.

48. The DAS I and II agency rehearing is pending before the Board and it is within the Board's jurisdiction to determine whether the additional evidence provided by IPL is relevant to the DAS I and II rehearing. The Board's determination as to the relevance of information in the

DAS I and II rehearing does not impact the scope of this judicial review, which is limited to the Board's unlawful denial of the 200 MW Project and BESS in its Final Order and December 29, 2022 Order on Rehearing.

49. IPL's Amended Petition for Judicial Review of the Board's denial of advance ratemaking principles for the 200 MW Projects and the BESS does not jeopardize the Board's jurisdiction to specify ratemaking principles for the DAS I and DAS II Projects, for which rehearing was granted.

50. The Board's Motion to Dismiss should be denied and the Court should clarify, to the extent such clarification is necessary, that the DAS I and II rehearing is not within the scope of this judicial review and that Board continues to retain jurisdiction to proceed with rehearing on DAS I and II.

V. THE COURT SHOULD DENY THE BOARD'S MOTION TO ENLARGE TIME TO TRANSMIT THE CERTIFIED RECORD.

51. The Board requested that the Court extend its deadline for transmission of the certified record during the pendency of the Court's review of the Motion to Dismiss. Motion, para. 8. Iowa Code § 17A.19(6) requires the Board to transmit the certified record of the contested case within 30 days after the filing of the petition. Accordingly, the certified record should have been transmitted on or before March 1, 2023. The Board has not provided any factual basis for its request nor any legal support justifying the reasonableness of its reason for needing the extension.

52. The Board maintains electronic records, so transmission of the record within the statutory deadline poses no burden upon the agency. Moreover, the Court has issued a briefing schedule that has not been and should not be stayed or extended pending the outcome of this motion. IPL is preparing its initial brief, which is due on April 30, 2023 and the certified record is a vital and critical component. To deprive IPL of access to the certified record during the pendency

of the Motion to Dismiss places IPL at a material disadvantage as the Board already has access to the certified record for use in preparing its own brief, which is due May 30, 2023. The Board's request is not reasonable.

53. Time is also of the essence. IPL requested expedited relief in its Petition for Judicial Review. IPL needs to move forward expeditiously with development and construction of the projects to continue to reliably serve Iowa customers. The Board itself has recognized that "[t]here is no question that IPL needs additional capacity and [the DAS I and II Projects], which have been approved for generation certificates by the Board, will provide some of the needed capacity." *In Re: Interstate Power and Light Company*, Docket No. RPU-2021-0003, Order Addressing Motion for Reconsideration or Rehearing, p. 15-16, (Dec. 29, 2022). An inability to move forward with the solar projects will also adversely impact IPL's contracts with third parties and may result in increased costs to customers. In response to IPL's request for expedited relief, IPL appreciates that the Court has acted promptly. A hearing on the motion to dismiss was promptly set as well as the briefing schedule and hearing date for the Petition for Judicial Review.

54. Based on the foregoing, the Court should deny the Board's Motion to Enlarge Time to Transmit Certified Record and require provision of the certified record immediately or no later than within three (3) business days of the Court's ruling on the Motion to Dismiss.

VI. REQUESTED RELIEF.

55. IPL reasserts the foregoing paragraphs as if fully set forth herein.

56. For the above-stated reasons, IPL respectfully requests that the Court enter an order denying the Board's Pre-Answer Motion to Dismiss and denying the Board's Motion to Enlarge Time to Transmit Certified Record and Order that the Board provide the same immediately or no later than three (3) business days from the date of the Court's ruling on the Motion to Dismiss.

WHEREFORE, the Petitioner, Interstate Power and Light Company respectfully requests that the Court enter an order denying Respondent, Iowa Utilities Board, a division of the Department of Commerce of the State of Iowa's Pre-Answer Motion to Dismiss and Motion to Enlarge Time to Transmit Certified Record, and for any and all other relief the Court deems just and equitable under the circumstances.

Respectfully Submitted,

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on March 13, 2023, by:

_____ US Mail	_____ FAX
_____ Hand Delivered	_____ Overnight Courier
_____ Federal Express	___x__ Other: EDMS

Signature: */s/ Tara Z. Hall*